

**Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

Bill C

LLS NO. 08-0342.02 Esther van Mourik

HOUSE BILL

HOUSE SPONSORSHIP

Buescher,

SENATE SPONSORSHIP

Penry,

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AN OPTION FOR PREPAYMENT OF SEVERANCE TAX**
102 **LIABILITY AVAILABLE TO A TAXPAYER FOR MITIGATION OF THE**
103 **IMPACT OF MINERAL OR MINERAL FUEL SEVERANCE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Interim Committee to Study the Allocation of Severance Tax and Federal Mineral Lease Revenues. For a specified time, allows for an optional prepayment of severance tax liability in an amount equal to the value of approved contributions, up to a specified amount, made by the taxpayer to a unit of local government or to a unit of state government in an area directly and substantially impacted by the severance of minerals

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

or mineral fuels. Specifies that the aggregate of all approved contributions shall not exceed a specified amount in one tax year. Directs the executive director of the department of local affairs to promulgate rules regarding the approval of contributions within the aggregate limitation.

Specifies requirements for approval of the contribution for prepayment against the taxpayer's severance tax liability.

Establishes how a taxpayer claims the prepayment against the taxpayer's severance tax liability.

Specifies that a taxpayer shall not be entitled to claim a prepayment under the act if the taxpayer has obtained or will obtain a certificate of eligibility for a specified tax credit.

Defines terms.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 29 of title 39, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **39-29-107.7. Option for prepayment of severance tax liability**
5 **for mitigation of the impact of mineral or mineral fuel severance -**
6 **definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
7 OTHERWISE REQUIRES:

8 (a) "MINERALS OR MINERAL FUELS" INCLUDES BUT IS NOT LIMITED
9 TO OIL SHALE, CRUDE OIL, NATURAL GAS, AND OIL AND GAS.

10 (b) "UNIT OF LOCAL GOVERNMENT" MEANS ANY COUNTY, CITY
11 AND COUNTY, CITY, OR TOWN OR A SERVICE AUTHORITY THAT MAY BE
12 ESTABLISHED PURSUANT TO SECTION 17 OF ARTICLE XIV OF THE STATE
13 CONSTITUTION, LOCATED IN AN AREA THAT IS DIRECTLY AND
14 SUBSTANTIALLY IMPACTED BY THE SEVERANCE OF MINERALS OR MINERAL
15 FUELS.

16 (c) "UNIT OF STATE GOVERNMENT" MEANS EVERY EXECUTIVE
17 DEPARTMENT, BOARD, COMMISSION, COMMITTEE, BUREAU, AND OFFICE OF
18 THE STATE; EVERY STATE INSTITUTION OF HIGHER EDUCATION, WHETHER

1 ESTABLISHED BY THE STATE CONSTITUTION OR BY LAW, AND EVERY
2 GOVERNING BOARD THEREOF; AND EVERY INDEPENDENT COMMISSION AND
3 OTHER POLITICAL SUBDIVISION OF THE STATE GOVERNMENT EXCEPT THE
4 COURTS.

5 (2) FOR TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2009,
6 BUT PRIOR TO JANUARY 1, 2014, THERE SHALL BE ALLOWED, AS A
7 PREPAYMENT AGAINST TAXES IMPOSED BY THIS ARTICLE ON THE
8 SEVERANCE OF MINERALS OR MINERAL FUELS, AN AMOUNT EQUAL TO THE
9 VALUE OF APPROVED CONTRIBUTIONS, UP TO ONE MILLION DOLLARS, MADE
10 BY THE TAXPAYER TO A UNIT OF LOCAL GOVERNMENT OR TO A UNIT OF
11 STATE GOVERNMENT.

12 (3) IN ORDER FOR A CONTRIBUTION TO BE APPROVED BY THE
13 DEPARTMENT OF LOCAL AFFAIRS, THE FOLLOWING REQUIREMENTS SHALL
14 BE FULFILLED:

15 (a) A TAXPAYER SHALL SUBMIT TO THE DEPARTMENT OF LOCAL
16 AFFAIRS AN APPLICATION FOR AN APPROVED CONTRIBUTION. EACH
17 APPLICATION SHALL BE BASED ON AN AGREEMENT BETWEEN THE
18 TAXPAYER AND A UNIT OF LOCAL GOVERNMENT OR A UNIT OF STATE
19 GOVERNMENT SPECIFYING THE NEED FOR SUCH CONTRIBUTION AND ITS
20 NATURE, VALUE OR AMOUNT, AND PURPOSE.

21 (b) THE CONTRIBUTIONS SHALL BE LIMITED TO DIRECT
22 CONTRIBUTIONS OF PROPERTY OR PAYMENTS OF MONEY TO A UNIT OF
23 LOCAL GOVERNMENT OR A UNIT OF STATE GOVERNMENT FOR EXPANSION
24 OR MAINTENANCE OF PUBLIC FACILITIES, INCLUDING BUT NOT LIMITED TO
25 STATE, COUNTY, OR MUNICIPAL ROADS AND BRIDGES, SCHOOLS, WATER
26 FACILITIES, SEWAGE FACILITIES, POLICE AND FIRE PROTECTION FACILITIES,
27 HOSPITALS, OR OTHER PHYSICAL INFRASTRUCTURE DEEMED TO BE

1 NECESSARY IN AN AREA DIRECTLY AND SUBSTANTIALLY IMPACTED BY THE
2 SEVERANCE OF MINERALS OR MINERAL FUELS.

3 (c) THE ANNUAL AGGREGATE SUM OF APPROVED CONTRIBUTIONS
4 SHALL NOT EXCEED FIVE MILLION DOLLARS FOR ALL TAXPAYERS IN EACH
5 STATE FISCAL YEAR. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
6 LOCAL AFFAIRS SHALL PROMULGATE RULES REGARDING THE APPROVAL OF
7 CONTRIBUTIONS WITHIN THE AGGREGATE LIMITATION IN ACCORDANCE
8 WITH ARTICLE 4 OF TITLE 24, C.R.S.

9 (4) (a) UPON APPROVAL OF AN APPLICATION FOR AN APPROVED
10 CONTRIBUTION, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL
11 AFFAIRS SHALL ISSUE A CERTIFICATE OF ELIGIBILITY FOR PREPAYMENT.
12 THE CERTIFICATE OF ELIGIBILITY FOR PREPAYMENT SHALL BE ISSUED NO
13 LATER THAN NINETY DAYS AFTER SUBMISSION OF AN APPLICATION BY THE
14 TAXPAYER.

15 (b) A CERTIFICATE OF ELIGIBILITY FOR PREPAYMENT MUST BE
16 TRANSMITTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
17 LOCAL AFFAIRS TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
18 REVENUE, THE UNIT OF LOCAL GOVERNMENT OR UNIT OF STATE
19 GOVERNMENT, AND THE TAXPAYER.

20 (5) A TAXPAYER MAY CLAIM A PREPAYMENT ALLOWED PURSUANT
21 TO SUBSECTION (2) OF THIS SECTION BY SUBMITTING WITH THE ANNUAL
22 DECLARATIONS AND RETURNS REQUIRED BY SECTION 39-29-112 THE
23 CERTIFICATE OF ELIGIBILITY FOR PREPAYMENT. THE AMOUNT OF
24 PREPAYMENT AVAILABLE IN ANY ONE TAXABLE YEAR SHALL NOT EXCEED
25 THE TAXPAYER'S SEVERANCE TAX LIABILITY IN SUCH YEAR. ANY EXCESS
26 AMOUNT SHALL NOT BE CARRIED OVER OR REFUNDED.

27 (6) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,

1 A TAXPAYER SHALL NOT BE ENTITLED TO A PREPAYMENT OF SEVERANCE
2 TAX LIABILITY PURSUANT TO THIS SECTION IF THE TAXPAYER IS CLAIMING
3 A CREDIT PURSUANT TO SECTION 39-29-107.5.

4 (7) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2018.

5 **SECTION 2.** 39-29-107.5, Colorado Revised Statutes, is
6 amended BY THE ADDITION OF A NEW SUBSECTION to read:

7 **39-29-107.5. Credit allowed for prior payment of impact**
8 **assistance.** (5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
9 SECTION, A TAXPAYER SHALL NOT BE ENTITLED TO A CREDIT AGAINST ITS
10 SEVERANCE TAX LIABILITY PURSUANT TO THIS SECTION IF THE TAXPAYER
11 IS CLAIMING A PREPAYMENT PURSUANT TO SECTION 39-29-107.7.

12 **SECTION 3. Effective date.** This act shall take effect at 12:01
13 a.m. on the day following the expiration of the ninety-day period after
14 final adjournment of the general assembly that is allowed for submitting
15 a referendum petition pursuant to article V, section 1 (3) of the state
16 constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008);
17 except that, if a referendum petition is filed against this act or an item,
18 section, or part of this act within such period, then the act, item, section,
19 or part, if approved by the people, shall take effect on the date of the
20 official declaration of the vote thereon by proclamation of the governor.